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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/789,888

02/27/2004

Kenneth R. Epstein

MB0006

9296

7590

07/03/2006

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EXAMINER

RICHMAN, GLENN E

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/789,888

Applicant(s)

EPSTEIN, KENNETH R.

Examiner

Glenn Richman

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/27/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of Solomon.

Taylor discloses a first handle (12); a second handle (12).

Taylor does not disclose a hollow flexible tubing element formed of a light transmissive material.

Solomon discloses a hollow flexible tubing element formed of a light transmissive material (fig. 4), said tubing element connected between said first and second handles (fig. 4); a plurality of light emitting diodes spaced and positioned within said tubing element (fig. 4, 12).

It would have been obvious to use Solomon's hollow flexible tubing with Taylor's jump rope, as it is well known as taught by Solomon, to have an entertainment means for the user, and as Taylor teaches a hollow translucent handle, with LED's disposed therein.

Taylor further discloses detail a speaker disposed within a handle of a jump rope (18), a music chip pre-programmed with music a beat track or sounds, disposed within

said first handle (col. 2, lines 59-61), at least one battery as a power source for said music chip and said light emitting diodes, disposed within said first handle (abstract), a control circuit disposed in said first handle for controlling said power source to said music chip and said light emitting diodes disposed within said first handle (abstract); and an on/off switch disposed in said first handle for controlling said power source to said control circuit, such that current from said power source through said control circuit drives said music chip and said speaker to play said pre-programmed music, beat track or sounds from said jump rope and such that current from said power source through said control circuit drives said light emitting diodes to emit light to illuminate said jump rope (16).

As for claims 2-7, 9-13 Taylor further discloses a printed circuit board disposed within said first handle, said music chip, said speaker, said control circuit and said on/off switch being disposed on said printed circuit board (col. 3, lines 25 – et seq.), a hatch on said first handle, said at least one battery being replaceable through said hatch (col. 3, lines 20-24), a hatch on said first handle, said music chip being replaceable through said hatch (fig. 4, 17), a battery compartment disposed within said first handle for holding said at least one battery (col. 3, lines 20-24), a first wire and a second wire electrically connected said plurality of light emitting diodes in said tubing element to said control circuit in said first handle (fig. 4).

As for claim 8, Taylor and Solomon do not specifically disclose a second on/off switch disposed in said first handle for controlling said power source from said control circuit to said light emitting diodes driving said light emitting diodes to emit light to

illuminate said jump rope, however it would have been obvious to include a second on/off switch with Taylor and Solomon, for controlling the LED's separately, as Taylor and Solomon disclose an on/off switch for controlling the music and LED's.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maleyko et al disclose a translucent tube on a lighted jump rope.

Solis discloses an illuminated jump rope having a hollow, translucent flexible tube.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/789,888  
Art Unit: 3764

Page 5



Glenn Richman  
Primary Examiner  
Art Unit 3764